

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

ANSON CHI, #44588-177

VS.

ANDREW STOVER, et al.

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CIVIL ACTION NO. 4:16cv317

ORDER OF DISMISSAL

This civil action was referred to a United States Magistrate Judge, who issued a Report and Recommendation concluding that the complaint should be dismissed with prejudice pursuant to 28 U.S.C. § 1915A(b)(1) (Dkt #12). Plaintiff filed objections.

In his objections, Plaintiff reasserts the issues raised in his complaint. However, he does not show that *Heck v. Humphrey* does not apply to his case, 512 U.S. 477, 486-87, 114 S. Ct. 2364, 2372, 129 L. Ed.2d 383 (1994). Because *Heck* applies to Plaintiff's case, it must be dismissed since Plaintiff fails to show that his conviction or sentence has been reversed, expunged, invalidated, or otherwise called into question. *Id.* He also fails to show that Judge Schell, the United States Attorney, and Assistant United States Attorneys are not immune from liability. *Boyd v. Biggers*, 31 F.3d 279, 284-85 (5th Cir. 1994) (claims against defendants with absolute immunity, such as judges and prosecutors, should be dismissed with prejudice).

In conclusion, the Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Having made a *de novo* review of the objections raised by Plaintiff to the Report, the Court concludes that the findings and conclusions of the Magistrate Judge are correct, and adopts the same

as the findings and conclusions of the Court. It is accordingly

ORDERED that the complaint and all claims against all defendants are **DISMISSED** with prejudice subject to their being asserted again until the *Heck* conditions are met. *Johnson v. McElveen*, 101 F.3d 423, 424 (5th Cir. 1996) (claims barred by *Heck* should be dismissed with prejudice to their being asserted again until the *Heck* conditions are met). Plaintiff's objections are **OVERRULED**.

Additionally, Plaintiff filed a motion to stay (Dkt. #16). A review of Plaintiff's underlying criminal case shows that both his direct appeal and his writ of certiorari have been denied. Accordingly, Plaintiff's motion to stay (Dkt. #16) is **DENIED**. All motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this 3rd day of November, 2016.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE